

Office of the Secretary of Labor

§ 71.1

Subpart B—Exemption of Records Systems Under the Privacy Act

71.50 General exemptions pursuant to subsection (j) of the Privacy Act.

71.51 Specific exemptions pursuant to subsection (k)(2) of the Privacy Act.

71.52 Specific exemptions pursuant to subsection (k)(5) of the Privacy Act.

APPENDIX A TO PART 71—RESPONSIBLE OFFICIALS

AUTHORITY: 5 U.S.C. 301; 5 U.S.C. 552a as amended; Reorganization Plan No. 6 of 1950, 5 U.S.C. Appendix.

SOURCE: 63 FR 56741, Oct. 22, 1998, unless otherwise noted.

Subpart A—General

§ 71.1 General provisions.

(a) *Purpose and scope.* This part contains the regulations of the U.S. Department of Labor implementing the Privacy Act of 1974, 5 U.S.C. 552a. The regulations apply to all records which are contained in systems of records maintained by, or under the control of, the Department of Labor and which are retrieved by an individual's name or personal identifier. These regulations set forth the procedures by which an individual may seek access under the Privacy Act to records pertaining to him, may request correction or amendment of such records, or may seek an accounting of disclosures of such records by the Department. These regulations are applicable to each component of the Department.

(b) *Government-wide systems of records.*

(1) DOL/GOVT-1 (Office of Workers' Compensation Programs, Federal Employees' Compensation Act File):

(i) All records, including claim forms, medical, investigative and other reports, statements of witnesses, and other papers relating to claims for compensation filed under the Federal Employees' Compensation Act (as amended and extended), are covered by the government-wide system of records entitled DOL/GOVT-1. This system is maintained by and under the control of the Employment Standards Administration's Office of Workers' Compensation Programs (OWCP), and, as such, all records contained in the OWCP claims file, as well as all copies of such documents retained and/or maintained by the injured worker's employing

agency, are official records of the OWCP.

(ii) The protection, release, inspection and copying of records covered by DOL/GOVT-1 shall be accomplished in accordance with the rules, guidelines and provisions of this part, as well as with part 70 of this subtitle, and with the notice of the systems of records and routine uses published in the FEDERAL REGISTER. All questions relating to access/disclosure, and/or the amendment of FECA records maintained by the OWCP or an employing agency, are to be resolved in accordance with this part.

(iii)(A) While an employing agency may establish procedures that an injured employee or beneficiary should follow in requesting access to documents it maintains, any decision issued in response to such a request must comply with the rules and regulations of the Department of Labor.

(B) Any administrative appeal taken from a denial issued by the employing agency shall be filed with the Solicitor of Labor in accordance with §§ 71.7 and 71.9 of this part.

(iv) No agency other than the OWCP has authority to issue determinations in response to requests for the correction or amendment of records contained in or covered by DOL/GOVT-1. Any request for correction or amendment received by an employing agency must be referred to the OWCP for review and decision.

(2) For the government-wide system of records entitled DOL/GOVT-2 (Job Corps Student Records), a system maintained by and under the control of the Employment and Training Administration, the regulations of this Department shall govern, including the procedure for requesting access to, or amendment of the records, as well as appeals therefrom, shall govern.

(c) *Definitions.* As used in this subpart, the following terms shall have the following meanings:

(1) *Agency* has the meaning set forth in 5 U.S.C. 552(f).

(2) *Component* means each separate agency, bureau, office, board, division, commission, service, or administration of the Department of Labor, as well as each agency which possesses records

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covered by a DOL government-wide system of records.

(3) *Individual Data Subject* means the individual by whose name or identifier the subject record is retrieved.

(4) *Record* means any item, collection, or grouping of information about an individual which is maintained by any component within a system of records and which contains the individual's name, identifying number, symbol, or other identifying particular assigned to the individual, such as a fingerprint, voiceprint, or photograph.

(5) *Requester* means an individual who makes either a request for access, a request for correction or amendment, or a request for an accounting.

(6) *Routine use* has the meaning set forth in 5 U.S.C. 552a(7).

(7) *Statistical record* has the meaning set forth in 5 U.S.C. 552a(6).

(8) *System of records* means a group of any records under the control of the Department or any component from which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to that individual.

(9) *Under the control of* means those official records for which the agency is officially responsible and either has in its possession or exercises dominion over. This excludes those records which, although in the physical possession of agency employees and used by them in performing official functions, are not, in fact, agency records. Uncirculated personal notes, papers and records which are retained or discarded at the author's discretion and over which the agency exercises no dominion or control (e.g., personal telephone list) are not *agency records* for purposes of this part.

(10) *He, his, and him* include "she", "hers" and "her".

§71.2 Requests for access to records.

(a) *Procedure for making requests for access to records.* An individual, or legal representative acting on his behalf, may request access to a record about himself by appearing in person or by writing to the component that maintains the record. (See appendix A to this part which lists the components of

the Department of Labor and their addresses.) A requester in need of guidance in defining his request may write to the Assistant Secretary for Administration and Management, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210-0002. A request should be addressed to the component that maintains the requested record. Both the envelope and the request itself should be marked: "Privacy Act Request."

(b) *Description of records sought.* A request for access to records must describe the records sought in sufficient detail to enable Department personnel to locate the system of records containing the record with a reasonable amount of effort. Whenever possible, a request for access should describe the nature of the record sought, the date of the record or the period in which the record was compiled, and the name or identifying number of the system of records in which the requester believes the record is kept.

(c) *Agreement to pay fees.* The filing of a request for access to a record under this subpart shall be deemed to constitute an agreement to pay all applicable fees charged under §71.6 up to \$25.00. The component responsible for responding to the request shall confirm this agreement in its letter of acknowledgment to the requester. When filing a request, a requester may specify a willingness to pay a greater amount, if applicable.

(d) *Verification of identity.* Any individual who submits a request for access to records must verify his identity in one of the following ways:

(1) Any requester making a request in writing must state in his request his full name, and current address. In addition, a requester must provide with his request an example of his signature, which shall be notarized, or signed as an unsworn declaration under penalty of perjury, pursuant to 28 U.S.C. 1746. In order to facilitate the identification of the requested records, a requester may also include in his request his Social Security number.

(2) Any requester submitting a request in person may provide to the